

May 7, 2013

Patricia R. Voss, Esq.
2881 E. Oakland Park Boulevard #212
Fort Lauderdale, Florida 33306-1813

RE: Sodaro Name Change

Dear Ms, Voss:

You had asked our office to look into the effect a name change made in 1943 would have on inheritance rights of the individual or individuals whose names were changed. More specifically, the individuals involved were Priscilla Sodaro and Phyllis Sodaro, the natural daughters of Eloise Payne and Eugene Hunter, whose names were changed from Hunter to Sodaro after Eloise Payne had married Bernard Sodaro. For the purpose of our research, here are the assumptions we used:

June 14, 1942 Bernard married Eloise Rosalee Payne.¹
Eloise had 2 children from her prior marriage to Eugene Hunter:
Priscilla Jean Hunter b. 06/23/1936
Phyllis Ann Hunter b. unknown (prior to June 1942)
There are no records of any children born to Bernard and Eloise.

September/October 1943 Eloise Sodaro filed a Petition for Name Change to change the names of her children, asserting that she had full custody of the children. Name Change was granted² and names were changed:
Priscilla Jean Hunter became Priscilla Jane Sodaro
Phyllis Ann Hunter became Phyllis Ann Sodaro

¹ Kanawha County Marriage Book 13/Page 111.

² Kanawha County Deed Book 655/Page 283.

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In 1965 WV Division of Vital Statistics issued a Birth Certificate for Priscilla Jean Hunter – listing parents as Eloise Payne and Eugene Hunter

April 8, 1994 Eloise R. Sodaro died. (No obituary located.)

September 15, 1999 Phyllis A. Farris died. Obituary lists father, Bernie Sodaro of Charleston, and sister Pat Ubl of Cocoa Beach, FL.

November 16, 2007 Bernard Sodaro died. Obituary states he was preceded in death by his daughter, Phyllis Farris. There is no mention of Priscilla Sodaro Ubl, Pat Ubl, or any other children.

The 1943 WV Code for adoption, in effect from March 5, 1943 are similar to today's statutes, including changes to be made by the office of Vital Statistics for issuance of a new birth certificate when the adoption is approved by the Court (Sec. 4). The 1943 statute did not allow inheritance by "lineal inheritance": "such child shall not be capable of taking property expressly limited to the heirs of the body of the adopting parent or parents, nor from the lineal or collateral kindred of the adopting parent or parent by right of representation." That provision of the statute has since changed, to allow a legally adopted child to inherit from the parent or parents and from or through the lineal or collateral kindred ... to the same extent as though said adopted child were a natural child of such adopting parent or parents". WV Code § 48-22-703.

The Court has addressed the issue of adoption and inheritance and has held that the statute of descent and distribution in effect at the date of death for the person from whom an adopted child would inherit applies. *King vs. Riffie* 172 W.Va. 586, 309 S.E 2d 85 (1983); *Morgan vs. Mayes*, 170 W.Va. 687, 296 SE 2d 34 (1982) Therefore, if Priscilla ("Pat") Sodaro Ubl or Phyllis Sodaro Farris had been adopted in 1943 (or thereafter) by Bernard Sodaro, they would be entitle to inherit from or through him as if his natural children. WV Code §42-1-1 et seq.

However, it does not appear that Priscilla or Phyllis was adopted by Bernard Sodaro. In 1943, the law for a name change was similar to today's statute, in that the petition had to be published (which it was) and good reason given for the name change. After the name change is

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granted, the new name is to be used. There is no effect on rights of inheritance by simply changing ones' name. WV Code § 4761 – 4766 (1932); WV Code § 48-5-1 et seq.

As you had noted, the birth certificate obtained in 1965 (after the Priscilla was an adult and married) shows her mother as Eloise Payne and her father as Eugene Hunter. If there had been an adoption in the 1940s, or at least after March 5, 1943, the birth certificate would have been changed to reflect the adoption and Mr. Sodaro listed as the birth father. I am assuming the same would be true for Phyllis Sodaro and that she was also not adopted by Mr. Sodaro.

The listing, or failure to list, next of kin in the obituary does not change the status of the individuals as legal heirs, although it is interesting that Phyllis' obituary lists Mr. Sodaro as her father (along with her sister), and Phyllis's widower is listed for Mr. Sodaro's obituary, but not Priscilla (Pat).

Thank your for involving our office in this interesting matter. If you have any questions regarding the above information, please call me at 304-345-8900.

Very truly yours,

A handwritten signature in cursive script that reads "Ann L. Haight".

Ann L. Haight

ALH:lt